

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

<b>IN THE MATTER OF</b>	§	
<b>MISUSE OF INTERNET PROTOCOL</b>	§	
<b>(IP) CAPTIONED TELEPHONE</b>	§	<b>CG DOCKET NO. 13-24</b>
<b>SERVICE</b>	§	
<b>TELECOMMUNICATIONS RELAY</b>	§	<b>CG DOCKET NO. 03-123</b>
<b>SERVICES AND SPEECH-TO-SPEECH</b>	§	
<b>SERVICES FOR INDIVIDUALS WITH</b>	§	
<b>HEARING AND SPEECH DISABILITIES</b>	§	

**EX PARTE COMMENTS OF THE PUBLIC UTILITY COMMISSION OF TEXAS**

The Public Utility Commission of Texas ("PUCT") submits these comments in response to the Federal Communications Commission's ("FCC's") Further Notice of Proposed Rulemaking ("FNPRM"), released August 26, 2013.<sup>1</sup> Among the issues raised in the FNPRM, the PUCT's comments focus specifically on the extent to which the responsibility for funding and overseeing Internet Protocol Captioned Telephone Service ("IP CTS") should be transferred to state regulatory authorities.

**I. BACKGROUND**

The Communications Act of 1934, as amended, requires that the FCC ensure that telecommunications relay service ("TRS") is available to people with hearing or speech disabilities, allowing them to communicate with other individuals in a manner that is comparable to a hearing individual's ability to communicate using voice communications services.<sup>2</sup> Presently, the FCC oversees and funds a nationwide TRS program, which compensates carriers that provide interstate TRS over traditional wireline facilities, as well as Voice over Internet Protocol ("VoIP") services.<sup>3</sup> One form of TRS that uses VoIP is called Internet Protocol Captioned Telephone Service ("IP CTS"). The FCC now considers whether it should transfer responsibility for the administration of IP CTS to state authorities.<sup>4</sup>

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<sup>1</sup> Report and Order and Further Notice of Proposed Rulemaking, *In the Matter of Misuse of Internet Protocol (IP) Captioned Telephone Service and Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 13-24 and CG Docket No. 03-123 (FCC 13-118), rel. August 26, 2013 ("FNPRM").

<sup>2</sup> 47 U.S.C. § 225.

<sup>3</sup> FNPRM at ¶6.

<sup>4</sup> *Id.* at ¶4.

## II. COMMENTS

While the PUCT does currently contract with a provider to ensure that wireline TRS is available in Texas, the PUCT does not currently administer the provision of IP CTS. The PUCT recommends against transferring responsibility for oversight and funding of IP CTS programs to state jurisdictions. If the FCC decides to transfer these responsibilities, several conditions must be satisfied before the transfer can be fully implemented.

**A. Certain data should be shared with state authorities so that they can estimate the cost of administering IP CTS programs.**

The PUCT does not currently regulate, oversee, or fund any Internet Protocol-based programs. Before the PUCT could begin administration of IP CTS, the PUCT would need access to significant information in order to assess the costs and structural changes needed to implement regulations relating to IP CTS. As indicated by the Public Service Commission of the State of Missouri (“MoPSC”), the FCC should share information relating to IP CTS call volumes, the number of people using IP CTS, and usage forecasts.<sup>5</sup> Similarly, multiple states have stated that they should be provided with data regarding how many of each type of captioned phone devices have been distributed in their state and regarding call volumes and units.<sup>6</sup> Without this information, states will not be able to accurately predict costs associated with administration of IP CTS programs. The PUCT cannot recommend the transfer of responsibility to state authorities until it has an opportunity to examine this information.

**B. Mandatory minimum standards should be developed before the states would be able to assume oversight of IP CTS.**

The FNPRM indicates that the FCC is considering the need and propriety of the development of mandatory minimum standards specific to IP CTS, including speed and accuracy standards.<sup>7</sup> The PUCT believes that the FCC is in the best position to develop these standards because, unlike many state authorities, the FCC has experience regulating IP CTS and has access

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<sup>5</sup> Reply Comments of the Public Service Commission of the State of Missouri, *In the Matter of Misuse of Internet Protocol (IP) Captioned Telephone Service and Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 13-24 and CG Docket No. 03-123, filed November 18, 2013, p. 4 (“MoPSC’s Reply Comments”).

<sup>6</sup> *Id.*; Comments of the Nebraska Public Service Commission, CG Docket No. 13-24 and CG Docket No. 03-123, filed November 1, 2013, p. 2 (“Nebraska PSC’s Comments”); Comments of the Florida Public Service Commission, CG Docket No. 13-24 and CG Docket No. 03-123, filed September 27, 2013, p. 3 (“Florida PSC’s Comments”); Comments of the California Public Utilities Commission and the People of the State of California, CG Docket No. 13-24 and CG Docket No. 03-123, filed November 4, 2013, p. 2 (“CPUC’s Comments”).

<sup>7</sup> FNPRM at ¶141.

to nationwide IP CTS usage statistics. At a minimum, these standards should be developed by the FCC before states can assume responsibility for oversight of IP CTS.

**C. Transfer should not occur unless suspected abuse and other problems have been resolved.**

The FCC also has the experience and data needed to address the problems acknowledged by the FNPRM on a nationwide level. The PUCT agrees with a number of states that have indicated that the FCC should implement a general prohibition on the use of TRS by people who do not have a hearing or speech impairment.<sup>8</sup> Additionally, the FCC should ensure that other measures, such as the prohibition on rewards and referral programs, have successfully reduced the incidence of inappropriate IP CTS usage.

**D. States should be given adequate time to implement laws, rules, policies, and procedures before oversight responsibilities are transferred to the states.**

States will require significant time to implement new laws, rules, policies, and procedures before oversight of IP CTS is possible. Several states have indicated that delegation of responsibility for IP CTS could take multiple years.<sup>9</sup> For example, the MoPSC recommends at least five years,<sup>10</sup> while the California Public Utilities Commission (“CPUC”) states that the process would take at least five to eight years.<sup>11</sup>

Statutory changes will be needed before the PUCT could administer IP CTS. In particular, as in Florida,<sup>12</sup> Texas statutes permit that only one TRS provider may be funded by the TUSF.<sup>13</sup> Additionally, the PUCT has limited authority to regulate Internet Protocol services, which likely includes IP CTS. The PUCT’s enabling statute states:

“Notwithstanding any other law, a department, agency, or political subdivision of this state may not by rule, order, or other means directly or indirectly regulate rates charged for, service or contract terms for, conditions for, or requirements for entry into the market for Voice over Internet Protocol service *or other Internet*

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<sup>8</sup> CPUC’s Comments at 13; Florida PSC’s Comments at 4.

<sup>9</sup> MoPSC’s Reply Comments at 5; Nebraska PSC’s Comments at 3; Florida PSC’s Comments at 5; CPUC’s Comments at 2.

<sup>10</sup> MoPSC’s Reply Comments at 5.

<sup>11</sup> CPUC’s Comments at 2.

<sup>12</sup> Florida PSC’s Comments at 7.

<sup>13</sup> Public Utility Regulatory Act (“PURA”), TEX. UTIL. CODE ANN. § 56.021(2) (Vernon 2007 & Supp. 2013) (permitting the TUSF to “reimburse *the* telecommunications carrier that provides the statewide telecommunications relay access service” (emphasis added)); PURA § 56.108(a) (stating: “The commission shall select one telecommunications carrier to provide statewide telecommunications relay access service.”).

*Protocol enabled services.”*<sup>14</sup>

Therefore, a change in law would likely be necessary before the PUCT could administer a statewide IP CTS program. If the PUCT were to receive the statutory authority needed to administer IP CTS, several significant changes in rules, policies, and procedures must also be undertaken.

**E. States should not be required to assume the responsibility of registering eligible IP CTS users.**

The FNPRM requests comments regarding whether the FCC should transfer to state authorities responsibility for certifying the eligibility of and registering new IP CTS users.<sup>15</sup> The PUCT currently does not maintain any registries of customers or store any customers’ sensitive information. The FCC has not provided sufficient information for the PUCT to estimate the cost of maintaining such a registry and has not provided guidance regarding measures to ensure that customers’ sensitive information will be protected. Additionally, as indicated by the CPUC, the FCC has not explained the process for states to verify customers that already have IP CTS equipment or what will happen if already deployed equipment is not compatible with equipment used by other TRS vendors.<sup>16</sup> The PUCT believes that these issues must be addressed before the FCC transfers the certification and registration responsibility to the state jurisdictions.

### III. CONCLUSION

The PUCT is concerned for and endeavors to be responsive to the needs of the deaf, hard-of-hearing, and speech-impaired citizens of Texas, as well as those throughout the nation. The PUCT believes that the FCC is the authority best positioned to administer an IP CTS program in Texas. The PUCT submits these comments in order to highlight the administrative and legal issues that must be addressed before the PUCT could properly assume the responsibility of administering an IP CTS program in Texas. The PUCT encourages the FCC to consider the issues presented in these comments.

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<sup>14</sup> PURA § 52.002(d) (emphasis added).


<sup>15</sup> FNPRM at ¶131.

<sup>16</sup> CPUC’s Comments at 10–11.



SIGNED AT AUSTIN, TEXAS the 10<sup>th</sup> day of March 2014.

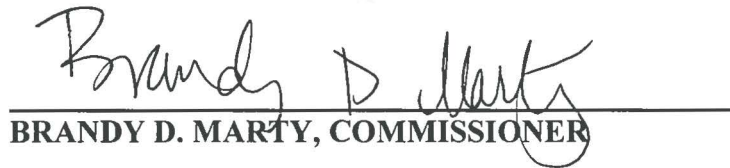
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